THE KANSAS QUESTION.

AN ACT

ORGANIZING THE TERRITORIAL GOVERNMENT OF KANSAS;

EXTRACTS FROM PRESIDENT PIERCE'S MESSAGE IN REGARD TO THE

ONSTITUTIONAL RELATIONS OF SLAVERY;

SPECIAL MESSAGE OF THE PRESIDENT

IN REGARD TO KANSAS AFFAIRS;

SPECIAL MESSAGE OF THE PRESIDENT

IN COMPLIANCE WITH A RESOLUTION OF THE SENATE;

TOGETHER WITH

COPIES OF CERTAIN LETTERS AND PAPERS TRANSMITTED THEREWITH, IN RELATION TO RECENT DIFFICULTIES IN THE TERRITORY OF KANSAS, WITH EXTRACTS FROM MR. TOOMB'S SPEECH IN REPLY TO MR. HALE.

WASHINGTON:
PRINTED AT THE UNION OFFICE.
1856.

KANSAS QUESTION.

The following is the act establishing a territorial government in the Territory of Kansas:

AN ACT TO ORGANIZE THE TERRITORIES OF NEBRASKA AND KANSAS

[The first eighteen sections of the act relate exclusively to the organization of the Territory of Nebraska.]

SEC. 19. *And be it further enacted*, That all that part of the territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit, beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the east boundary of the Territory of Utah, on the summit of the Rocky mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Kansas; and when admitted as a State or States, the said Territory or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States: *Provided, further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Kansas, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Kansas, or to affect the authority of the government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law or otherwise, which it would have been competent to the government to make if this act had never passed.

SEC. 20. *And be it further enacted*, That the executive power and authority in and over said Territory of Kansas shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, and shall be commander-in-chief of the militia thereof. He may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 21. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, to be deposited in the libraries of Congress; and in case of the death, removal, resignation, or absence of the governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 22. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of twenty-six members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in and be inhabitants of, the district or county, or counties, for which they may be elected, respectively. Previous to the first election the governor shall cause a census, or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons and in such mode as the governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place and on such days as the governor shall appoint; but thereafter, the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several councils or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 23. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory by reason of being on service therein.

SEC. 24. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said Territory shall, before it become a law, be presented to the governor of the Territory; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return, in which case it shall not be a law.

SEC. 25. *And be it further enacted*, That all township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Kansas. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and, in the first instance, the governor alone may appoint all said officers, who shall hold their offices until

the end of the first session of the legislative assembly; and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 26. *And be it further enacted*, That no member of the legislative assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to the members of the first legislative assembly; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 27. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error, and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States in the same manner, and under the same regulations, as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves the said writs of error or appeals shall be allowed and decided by said supreme court without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also be allowed to the Supreme Court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of habeas corpus, involving the question of personal freedom: *Provided*, That nothing herein contained shall be construed to apply to or affect the provisions of the "act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the "act to amend and supplementary to the aforesaid act," approved September eighteenth, eighteen hundred and fifty; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as may be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws, and writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other cases. The said clerk shall receive the same fees in all such cases which the clerks of the district courts of Utah Territory now receive for similar services.

SEC. 28. *And be it further enacted*, That the provisions of the act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the provisions of the act entitled "An act to amend, and supplementary to the aforesaid act," approved September eighteenth, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of the said Territory of Kansas.

SEC. 29. *And be it further enacted*, That there shall be appointed an attorney for said Territory who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Utah. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as

the marshal of the district court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 30. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace, in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of two thousand five hundred dollars. The chief justice and associate justices shall receive an annual salary of two thousand dollars. The secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route; and an additional allowance of three dollars shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, a sergeant-at-arms, and doorkeeper, may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislature annually, unless, on an extraordinary occasion, the governor shall think proper to call the legislature together. There shall be appropriated, annually, the usual sum, to be expended by the governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the executive department, and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the governor and secretary of the Territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said Secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 31. *And be it further enacted*, That the seat of government of said Territory is hereby located temporarily at Fort Leavenworth; and that such portions of the public buildings as may not be actually used and needed for military purposes, may be occupied and used, under the direction of the governor and legislative assembly, for such public purposes as may be required under the provisions of this act.

SEC. 32. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Representatives, but the delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but

to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth of March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

SEC. 33. *And be it further enacted*, That there shall hereafter be appropriated, as has been customary for the territorial governments, a sufficient amount, to be expended under the direction of the said governor of the Territory of Kansas, not exceeding the sums heretofore appropriated for similar objects, for the erection of suitable public buildings at the seat of government, and for the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

SEC. 34. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 35. *And be it further enacted*, That, until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation, to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts as to them shall seem proper and convenient.

SEC. 36. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Kansas, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security, at such time and place, and in such manner as the Secretary of the Treasury may prescribe.

SEC 37. *And be it further enacted*, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the territories embraced within this act, shall be faithfully and rigidly observed, notwithstanding anything contained in this act; and that the existing agencies and superintendencies of said Indians be continued with the same powers and duties which are now prescribed by law, except that the President of the United States may, at his discretion, change the location of the office of superintendent.

APPROVED, *May* 30, 1854.

EXTRACT FROM THE PRESIDENT'S ANNUAL MESSAGE TO THE TWO HOUSES OF CONGRESS, DECEMBER 31, 1855.

When the confederated States found it convenient to modify the conditions of their associations by giving to the general government direct access, in some respects, to the people of the States, instead of confining it to action on the States as such, they proceeded to frame the existing Constitution, adhering steadily to one guiding thought, which was, to delegate only such power as was necessary and proper to the execution of specific purposes, or, in other words, to retain as much as possible, consistently with those purposes, of the independent powers of the individual States. For objects of common defence and security, they intrusted to the general government certain carefully-defined functions, leaving all others as the undelegated rights of the separate independent sovereignties.

Such is the constitutional theory of our government, the practical observance of which has carried us, and us alone, among modern republics, through nearly three generations of time without the cost of one drop of blood shed in civil war. With freedom and concert of action, it has enabled us to contend successfully on the battle field against foreign foes, has elevated the feeble colonies into powerful States, and has raised our industrial productions, and our commerce which transports them, to the level of the richest and the greatest nations of Europe. And the admirable adaptation of our political institutions to their objects, combining local self-government with aggregate strength, has established the practicability of a government like ours to cover a continent with confederate States.

The Congress of the United States is, in effect, that congress of sovereignties which good men in the Old World have sought for, but could never attain, and which imparts to America an exemption from the mutable leagues for common action, from the wars, the mutual invasions, and vague aspirations after the balance of power, which convulse, from time to time,

the governments of Europe. Our co-operative action rests in the conditions of permanent confederation prescribed by the Constitution. Our balance of power is in the separate reserved rights of the States, and their equal representation in the Senate. That independent sovereignty in every one of the States, with its reserved rights of local self-government assured to each by their co-equal power in the Senate, was the fundamental condition of the Constitution. Without it the Union would never have existed. However desirous the larger States might be to re-organize the government so as to give to their population its proportionate weight in the common councils, they knew it was impossible, unless they conceded to the smaller ones authority to exercise at least a negative influence on all the measures of the government, whether legislative or executive, through their equal representation in the Senate. Indeed, the larger States themselves could not have failed to perceive, that the same power was equally necessary to them, for the security of their own domestic interests against the aggregate force of the general government. In a word, the original States went into this permanent league on the agreed premises of exerting their common strength for the defence of the whole, and of all its parts; but of utterly excluding all capability of reciprocal aggression. Each solemnly bound itself to all the others, neither to undertake, nor permit, any encroachment upon, or intermeddling with, another's reserved rights.

Where it was deemed expedient, particular rights of the States were expressly guarantied by the Constitution; but, in all things besides, these rights were guarded by the limitation of the powers granted, and by express reservation of all powers not granted, in the compact of union. Thus, the great power of taxation was limited to purposes of common defence and general welfare, excluding objects appertaining to the local legislation of the several States; and those purposes of general welfare and common defence were afterwards defined by specific enumeration, as being matters only of corelation between the States themselves, or between them and foreign governments, which, because of their common and general nature could not be left to the separate control of each State.

Of the circumstances of local condition, interest, and rights, in which a portion of the States, constituting one great section of the Union, differed from the rest, and from another section, the most important was the peculiarity of a larger relative colored population in the southern than in the northern States.

A population of this class, held in subjection, existed in nearly all the States, but was more numerous and of more serious concernment in the south than in the north, on account of natural differences of climate and production; and it was foreseen that, for the same reasons, while this population would diminish, and, sooner or later, cease to exist, in some States, it might increase in others. The peculiar character and magnitude of this question of local rights, not in material relations only, but still more in social ones, caused it to enter into the special stipulations of the Constitution.

Hence, while the general government, as well by the enumerated powers granted to it as by those not enumerated, and therefore refused to it, was forbidden to touch this matter in the sense of attack or offence, it was placed under the general safeguard of the Union, in the sense of defence against either invasion or domestic violence, like all other local interests of the several States. Each State expressly stipulated, as well for itself as for each and all of its citizens, and every citizen of each State became solemnly bound by his allegiance to the Constitution, that any person held to service or labor in one State, escaping into another, should not, in consequence of any law or regulation thereof, be discharged from such service or labor, but should be delivered up on claim of the party to whom such service or labor might be due by the laws of his State.

Thus, and thus only, by the reciprocal guaranty of all the rights of every State against interference on the part of another, was the present form of government established by our fathers and transmitted to us; and by no other means is it possible for it to exist. If one State ceases to respect the rights of another, and obtrusively intermeddles with its local interests—if a portion of the States assume to impose their institutions on the others, or refuse to fulfil their obligations to them—we are no longer united friendly States, but distracted, hostile ones, with little capacity left of common advantage, but abundant means of reciprocal injury and mischief.

Practically, it is immaterial whether aggressive interference between the States, or deliberate refusal on the part of any one of them to comply with constitutional obligations, arise from erroneous conviction or blind prejudice, whether it be perpetrated by direction or indirection. In either case, it is full of threat and of danger to the durability of the Union.

Placed in the office of Chief Magistrate as the executive agent of the whole country, bound to take care that the laws be faithfully executed, and specially enjoined by the Constitution to give information to Congress on the state of the Union, it would be palpable neglect of duty on my part to pass over a subject like this, which, beyond all things at the present time, vitally concerns individual and public security.

It has been matter of painful regret to see States, conspicuous for their services in founding this republic, and equally sharing its advantages, disregard their constitutional obligations to it. Although conscious of their inability to heal admitted and palpable social evils of their own, and which are completely within their jurisdiction, they engage in the offensive and hopeless undertaking of reforming the domestic institutions of other States wholly beyond their control and authority. In the vain pursuit of ends, by them entirely unattainable, and which they may not legally attempt to compass, they peril the very existence of the Constitution, and all the countless benefits which it has conferred. While the people of the

southern States confine their attention to their own affairs, not presuming officiously to intermeddle with the social institutions of the northern States, too many of the inhabitants of the latter are permanently organized in associations to inflict injury on the former, by wrongful acts, which would be cause of war as between foreign powers, and only fail to be such in our system, because perpetrated under cover of the Union.

Is it possible to present this subject, as truth and the occasion require, without noticing the reiterated but groundless allegation that the south has persistently asserted claims and obtained advantages in the practical administration of the general government, to the prejudice of the north, and in which the latter has acquiesced? That is, the States which either promote or tolerate attacks on the rights of persons and of property in other States, to disguise their own injustice, pretend or imagine, and constantly aver, that they, whose constitutional rights are thus systematically assailed, are themselves the aggressors. At the present time this imputed aggression, resting as it does only in the vague declamatory charges of political agitators, resolves itself into misapprehension, or misinterpretation, of the principles and facts of the political organization of the new Territories of the United States.

What is the voice of history? When the ordinance, which provided for the government of the territory northwest of the river Ohio, and for its eventual sub-division into new States, was adopted in the Congress of the confederation, it is not to be supposed that the question of future relative power, as between the States which retained, and those which did not retain, a numerous colored population, escaped notice, or failed to be considered. And yet the concession of that vast territory to the interests and opinions of the northern States, a Territory now the seat of five among the largest members of the Union; was in great measure the act of the State of Virginia and of the south.

When Louisiana was acquired by the United States it was an acquisition not less to the north than to the south; for while it was important to the country at the mouth of the river Mississippi to become the emporium of the country above it, so also it was even more important to the whole Union to have that emporium; and although the new province, by reason of its imperfect settlement, was mainly regarded as on the Gulf of Mexico; yet, in fact, it extended to the opposite boundaries of the United States, with far greater breadth above than below, and was in territory, as in everything else, equally at least an accession to the northern States. It is mere delusion and prejudice, therefore, to speak of Louisiana as acquisition in the special interest of the south.

The patriotic and just men who participated in that act were influenced by motives far above all sectional jealousies. It was in truth the great event which, by completing for us the possession of the valley of the Mississippi, with commercial access to the Gulf of Mexico, imparted unity and strength to the whole confederation, and attached together by indissoluble ties the east and the west, as well as the north and the south.

As to Florida, that was but the transfer by Spain to the United States of territory on the east side of the river Mississippi, in exchange for large territory, which the United States transferred to Spain on the west side of that river, as the entire diplomatic history of the transaction serves to demonstrate. Moreover, it was an acquisition demanded by the commercial interests and the security of the whole Union.

In the meantime the people of the United States had grown up to a proper consciousness of their strength, and in a brief contest with France, and in a second serious war with Great Britain, they had shaken off all which remained of undue reverence for Europe, and emerged from the atmosphere of those trans-Atlantic influences which surrounded the infant republic, and had begun to turn their attention to the full and systematic development of the internal resources of the Union.

Among the evanescent controversies of that period the most conspicuous was the question of regulation by Congress of the social condition of the future States to be founded in the territory of Louisiana.

The ordinance for the government of the territory northwest of the river Ohio had contained a provision which prohibited the use of servile labor therein, subject to the condition of the extraditions of fugitives from service due in any other part of the United States. Subsequently to the adoption of the Constitution this provision ceased to remain as a law; for its operation as such was absolutely superseded by the Constitution. But the recollection of the fact excited the zeal of social propagandism in some sections of the confederation; and when a second State, that of Missouri, came to be formed in the territory of Louisiana, proposition was made to extend to the latter territory the restriction originally applied to the country situated between the rivers Ohio and Mississippi.

Most questionable as was this proposition in all its constitutional relations, nevertheless it received the sanction of Congress, with some slight modifications of line, to save the existing rights of the intended new State. It was reluctantly acquiesced in by southern States as a sacrifice to the cause of peace and of the Union, not only of the rights stipulated by the treaty of Louisiana, but of the principle of equality among the States guarantied by the Constitution. It was received by the northern States with angry and resentful condemnation and complaint, because it did not concede all which they had exactingly demanded. Having passed through the forms of legislation, it took its place in the statute book, standing open to repeal, like any other act of doubtful constitutionality, subject to be pronounced null and void by the courts of law, and possessing no possible efficacy to control the rights of the States which might thereafter be organized out of any part of the original territory of Louisiana.

[From the Washington Union of February 16.]

THE LATEST AND THE BOLDEST.

The New York Tribune of Thursday contains statements respecting affairs in the Territory of Kansas to which we wish briefly to call attention.

The first is that the last legislature of Kansas appointed sheriffs, judges, &c., to serve for a period of *six years*. This allegation is without a particle of foundation in truth, as will be seen by examining the copy of the "Statutes of the Territory of Kansas," published, "by authority," at the Shawnee M. L. School, and printed by John T. Brady, public printer. The last general assembly of Kansas provided that *all* public officers within the control of the Territory, except treasurer and comptroller, should be elected by the people at the general election for members of the general assembly for the year 1857. The treasurer and comptroller alone are elective by the general assembly, and they are to be chosen once every four years. We give a copy of so much of the act providing for election of sheriff as relative to the falsehood of the Tribune:

Chapter 150, pp. 712, 713, sections 1 and 2.—Sheriff.

AN ACT PROVIDING FOR THE OFFICE OF SHERIFF, AND PRESCRIBING HIS DUTIES.

Be it enacted by the governor and legislative assembly of the Territory of Kansas, as follows:

SEC. 1. There shall be elected, by joint vote of the legislative assembly, at the present session, for each county, a sheriff, who shall hold his office until the general election for members of the legislative assembly, in the year eighteen hundred and fifty-seven; and such sheriff, when elected, shall be commissioned by the governor, and shall take the oath of office prescribed by law, which shall be endorsed on his commission, and the same, so endorsed, shall be recorded in the office of the recorder of the county; and such sheriff, before entering upon the duties of his office, shall give bond, to be approved by the probate court, in a sum not less than two thousand dollars, nor more than fifty thousand dollars, as may be prescribed by the said probate court, conditioned that he will faithfully collect and pay over all moneys intrusted to him for collection, and account for all money coming into his hands, and faithfully and impartially demean himself in office; said bond shall be filed and recorded in the recorder's office of the proper county.

SEC. 2. At the general election for members of the legislative assembly for the year eighteen hundred and fifty seven, and every four years thereafter, the qualified voters of each county shall elect a sheriff, who shall hold his office for the term of four years, and until his successor shall be duly elected, commissioned, and qualified.

The provisions of law for the election of judges of probate are similar to those for election of sheriffs. It was necessary for the general assembly to elect those and other officers to serve for a brief period, in order that the machinery of territorial government might be put promptly in motion.

In the same article, the Tribune says, that the right of suffrage in Kansas is "given to every man who pays, or in whose behalf is paid, a poll-tax of one dollar, although he may not have slept one night in the Territory," and publishes, to sustain the allegation, a copy of a law never enacted by the general assembly of Kansas, and, of course, of no authority there. We give the law as printed in the Tribune:

An act instituting a poll-tax.

Be it enacted, &c. SEC. 1. That every free white male above the age of twenty-one years, who shall pay to the proper officer in Kansas Territory the sum of one dollar as a poll-tax, and shall produce to the judges of any election within and for the Territory of Kansas a receipt showing the payment of said poll-tax, shall be deemed a legal voter, and shall be entitled to vote at any election in said Territory during the year for which the same shall have been paid: *Provided*, That the right of suffrage shall be exercised only by citizens of the United States, and those who have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of the act organizing the Territory of Kansas.

That the above is a forgery will be made apparent by reading the following, which are the only laws of Kansas prescribing the qualifications of voters:

Chapter 66, p. 332, section 11.—Elections.

AN ACT TO REGULATE ELECTIONS.

Be it enacted by the governor and legislative assembly of the Territory of Kansas, as follows:

SECTION 11. Every free white male citizen of the United States, and every free male Indian who is made a citizen by treaty or otherwise, and over the age of twenty-one years, who shall be an inhabitant of this Territory, and of the county or district in which he offers to vote, and shall have paid a territorial tax, shall be a qualified elector for all elective officers; and all Indians who are inhabitants of this Territory, and who may have adopted the customs of the white man, and who are liable to pay taxes, shall be deemed citizens: *Provided*, That no soldier, seaman, or mariner, in the regular army or navy of the United States, shall be entitled to vote by reason of being on service therein: *And provided further*, That no person who shall have been convicted of any violation of any of the provisions of an act of Congress entitled "An act respecting fugitives from justice and persons escaping from the service of their masters," approved February 12, 1793; or of an act to amend and supplementary to said act, approved 18th September, 1850; whether such conviction were by criminal proceeding, or by civil action for the recovery of any penalty prescribed by either of said acts, in any courts of the United States, or of any State or Territory, of any offence deemed infamous, shall be entitled to vote at any election, or to hold any office in the Territory: *And provided further*, That if any person offering to vote shall be challenged and required to take an oath or affirmation, to be administered by one of the judges of the election, that he will sustain the provisions of the above-recited acts of Congress, and of the act entitled "An act to organize the Territories of Nebraska and Kansas," approved May 30, 1854; and shall refuse to take such oath or affirmation, the vote of such person shall be rejected.

The only enactment by the general assembly of that Territory which relates to the "instituting of a poll tax," is the following:

Chapter 138, p. 680, section 1.—Revenue.

AN ACT SUPPLEMENTAL TO AN ACT TO PROVIDE FOR THE COLLECTION OF THE REVENUE.

Be it enacted by the governor and legislative assembly of the Territory of Kansas, as follows:

SEC. 1. That, in addition to the provisions of an act entitled "An act for the collection of the revenue," the sheriff of each and every county shall, on or before the first Monday of October, A. D. 1855, collect the sum of one dollar as a poll tax from each person in the said Territory of Kansas who is or may be entitled to vote in said Territory, as provided in said act, to which this is supplementary.

The above statements by the Tribune are fair samples of the numberless wicked, stupid falsehoods daily published in that journal respecting public affairs in Kansas.

[From the Washington Union of the 16th February.]

THE BALLOT-BOX IN KANSAS.—THE ELECTION LAWS.

It turn out, in the end, that very much of the sectional agitation which prevails in regard to affairs in Kansas has been the result of a systematic and persistent scheme of misrepresentation and falsehood, conceived in a spirit of unscrupulous avarice and fanaticism combined, and carried out for political purposes. No little of that devotion to freedom which has been the watchword of agitators in the free States will appear to be the concerted work of speculators, who calculate on enriching themselves at the expense of the peace and fraternity which should subsist between the two sections of the Union. It will be made apparent, in due season, that the celebrated Emigrant Aid Society originated in filthy lucre instead of in disinterested philanthropy, and that it is, in reality, a mammoth corporation, in which the stockholders expect to become rich in Kansas lands, and in heavy dividends upon the agitation which their agents have gotten up under the pretence of philanthropy and love of freedom.

We called attention, in our issue of this morning, to the bold falsehoods circulated by the Tribune in regard to the character of certain laws passed by the late Kansas legislature. This is part of the system of misrepresentation on which the agitation is sought to be kept up. We proceed now to make further extracts from the statutes of Kansas in regard to the preservation of the right of suffrage from fraud, violation, or improper influences. After the clamor that the abolitionists have raised as to the enormity of the laws of the Kansas legislature, the public mind will be surprised to find that there is no State or Territory in the confederacy in which the ballot-box is guarded and protected by more stringent laws than in Kansas. To establish this position, we extract from the "Act defining the punishment of offences affecting public trusts" the following sections for the preservation of the elective franchise in Kansas:

SEC. 24. If any person, by menaces, threats, and force, or by any other unlawful means, either directly or indirectly, attempt to influence any qualified voter in giving his vote, or to deter him from giving the same, or disturb or hinder him in the free exercise of his right of suffrage, at any election held under the laws of this Territory, the person so offending shall, on conviction thereof, be adjudged guilty of a misdemeanor, and be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year.

SEC. 25. Every person who shall, at the same election, vote more than once, either at the same or a different place, shall on conviction, be adjudged guilty of a misdemeanor, and be punished by fine not exceeding fifty dollars, or by imprisonment in the county jail not exceeding three months.

SEC. 26. Every person not being a qualified voter according to the organic law and the laws of this Territory, who shall vote at any election within this Territoyy, knowing that he is not entitled to vote, shall be adjudged guilty of a misdemeanor, and punished by fine not exceeding fifty dollars.

SEC. 27. Any person who designedly gives a printed or written ticket to any qualified voter of this Territory, containing the written or printed names of persons for whom said voter does not design to vote, for the purpose of causing such voter to poll his vote contrary to his own wishes, shall, on conviction, be adjudged guilty of a misdemeanor, and punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment.

SEC. 28. Any person who shall cause to be printed and circulated, or who shall circulate, any false and fraudulent tickets, which upon their face appear to be designed as a fraud upon voters, shall, upon conviction, be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment.

This act to take effect and be in force from and after its passage.

EXTRACT FROM MR. TOOMBS' SPEECH IN REPLY TO MR. HALE

The senator paid a just tribute to one of the most philosophic, calm, and patriotic men produced by the Revolution—Mr. Madison—a man whom I regard as the model of a statesman. He quotes him as authority in favor of the prohibition. Well, sir, Mr. Madison's opinion on this subject, under his own hand, has been before the country for several years, in which he denies this power to Congress. The letter referred to has been printed for several years; it must, therefore, have escaped the senator's attention. I will read what he said upon this subject. I have not the book before me, but I have this opinion, quoted in a speech which I delivered here two years ago, when the Kansas and Nebraska bill was under discussion. Mr. Madison, in his letter to Mr. Monroe, in 1820, says:

"On one side it naturally occurs that the right, being given from the necessity of the case, and in suspension of the great principle of self-government, ought not to be extended further nor continued longer than the occasion might fairly require."

That was as to the clause in the Constitution giving Congress power to make "all needful rules and regulations respecting the territory or other property belonging to the United States." But Mr. Madison goes further:

"The questions to be decided seem to be—

"1. Whether a *territorial* restriction be an assumption of illegitimate power; or,

"2. A misuse of legitimate power; and, if the latter only, whether the injury threatened to the nation from an acquiescence in the misuse, or from a frustration of it, be the greater.

"On the first point there is certainly room for difference of opinion; though, for myself, I must own that I have always leaned to the belief that the *restriction was not within the true scope of the Constitution.*"

This is an extract from a letter written by Mr. Madison, in 1820, to Mr. Monroe, then President of the United States, when the question arose, and when, I assert, this independent power of prohibition was seriously claimed for the first time in either branch of the Congress of the United States. Therefore, while the authority of Mr. Madison is quoted in support of this power, he himself, at the very time when the power was asserted, and excited the greatest amount of popular interest, spoke for himself, and gave his clear and explicit opinion against its constitutionality.

Again, the gentleman says that General Washington was in favor of this prohibition. He invites us to go back to the fathers of the republic. It is wholly useless, I believe, to attempt to set gentlemen right who do not intend to be set right, on a question of historical fact. The act of August 7, 1789, which the senator quoted, and says that Washington signed, says not a word upon this question of prohibition. It does not allude to it in the remotest manner.

The ordinance of 1787 had been passed two years before; it had been accepted by the old confederation. The government of that Territory was in actual existence under the old confederation, with the right secured to Congress to appoint its officers. The new Constitution was adopted, and Congress met in 1789. By that Constitution Congress was bound by all contracts of the old government; and Congress passed this act:

"*Whereas*, In order that the ordinance of the United States in Congress assembled, for the government of the Territory northwest of the river Ohio, may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States."

That is what the bill proposed. To give effect to the ordinance, to adapt it to the present Constitution, they say it is necessary to pass this law; and what was it?

"*Be it enacted, &c.*, That in all cases in which, by the said ordinance, any information is to be given, or communication made by the governor of the said Territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said governor to give such information, and to make such communication to the President of the United States, and the President shall nominate, and, by and with the advice and consent of the Senate, shall appoint all officers, which by the said ordinance were to have been appointed by the United States in Congress assembled, and all officers so appointed shall be commissioned by him; and in all cases where the United States in Congress assembled might, by the said ordinance, revoke any commission, or remove from any office, the President is hereby declared to have the same powers of revocation and removal."

This section does nothing but confer the powers which the contract gave to the old government to the new one, subject to the restrictions of the Constitution. Again, in the second section we find the following:

"SEC. 2. *And be it further enacted*, That in case of the death, removal, resignation, or necessary absence of the governor of the said Territory, the secretary thereof shall be, and is hereby authorized and required to execute all the powers, and perform all the duties of the governor during the vacancy occassioned by the removal, resignation, or necessary absence of the said governor."

"Approved August 7, 1789."

I have read every word of the act.

Mr. HALE.—I wish to ask the senator from Georgia, whether he does not consider that the ordinance of 1787 was as effectually re-enacted by that Congress as if set out *in totidem verbis* in that act.

Mr. TOOMBS.—I certainly do not. It was not re-enacted at all. There was no effort to re-enact it. The ordinance purports on its face to be a contract between the people of Virginia, the inhabitants of the northwest Territory, and the government of the United States, perpetual and unalterable, except by the consent of all parties. It was accepted by all three of the parties. It was a contract executed. The first Congress found it in existence. The Constitution had affirmed the validity of contracts made under the confederacy. The original ordinance provided for the appointment of officers by Congress. The act which the senator quoted, and which I have read, simply made that provision conform to the Constitution of the United States. How can the first Congress be said to have adopted the ordinance of 1787 by that action? By what construction can that be contended? It is said they accepted the grant with the prohibition of slavery. They did not even do that. But that same Congress, in which were Madison and the other great men whom the senator from New Hampshire named, did accept from North Carolina a grant of the territory which now constitutes the State of Tennessee, with a pro-slavery clause, and carried that clause in the territorial bill. Your territorial act for Tennessee not only carried out that provision, but extended it to all territory claimed by the United States south of the Ohio river. There was a tract of territory in the southwest which the United States claimed independently of any State control or authority, and over that territory, in 1798, in the time of John Adams, a territorial government was established, and the act repeated the ordinance of 1787 in words, excluding the anti-slavery clause. The honorable senator from New Hampshire wants the practice of our fathers. I will give it to him. I say the prohibition of slavery cannot be found on the statute book, even impliedly, from the establishment of this government, under the Constitution, until 1820, and I stand ready at all times to make good the assertion, and demand proof of a single statute to the contrary. Such prohibition cannot be found in the statutes of the United States. The right to prohibit the people of the different States of this Union to go into the common Territories with their slave property, was never asserted by the Congress of the United States from 1789 to 1820. The elder Adams, of Massachusetts, signed a bill establishing a territorial government over a country claimed by independent authority—the only foot of territory which the United States claimed in their own right, without grant, unfettered by the conditions of any grant; and in regard to that Territory, they struck out in words the sixth or anti-slavery section of the ordinance of 1787, and extended the residue of the ordinance to it. It is true that, upon each division of the northwest territory, the whole ordinance was applied to each of its parts, but that was in pursuance of the contract with the old confederation.

In 1803, under the administration of Mr. Jefferson, we established the territorial governments of Orleans and Louisiana, and subsequently in the same region the Territories of Missouri and Arkansas. In 1819 we obtained a cession of Florida from Spain, and established a territorial government there. In all these cases there was no prohibition of slavery. No such prohibition was enacted until 1820, upon the proposition to admit Missouri as a State. The Congress of 1820 was the first that ever assumed and exercised such a power. Thirty years had then elapsed since the formation of the Constitution. Almost all the fathers of our government had gone to their graves. Then it was that ambition, defeated hopes, blasted political prospects, brought strife and mischief into the public counsels; then it was that the equitable and just policy of our fathers was abandoned; then we "sowed the wind," and are now "reaping the whirlwind." Then it was, a former distinguished citizen of Massachusetts, though at that time a senator from New York, Rufus King, inaugurated the policy of prohibition. It had no support, no pretence of foundation, in the practice of the fathers from 1789 to 1820. Eight territorial governments were set in operation by Congress, by the fathers of the republic, without the assertion in any of them of this power of prohibition. When it was then proposed, those of the fathers who were living, Mr. Jefferson and Mr. Madison, and others, came forward and put their condemnation upon that assumption of unconstitutional authority.

I am very happy to observe the tone of moderation expressed by the Senator from New Hampshire upon the general question. I cordially reciprocate it. If he only desires, as he asserts, that there shall be no agression on either side, I will strike hands with him, and let the question be settled on that basis, now, finally, and forever. The country will respond to the sentiment. Let there be no legislative aggression on either side. Look through the records of the country, and show a single act, from the beginning of the government to this hour, where the south have perpetrated any aggression on the north, and I would claim it as a privilege to strike it from the statute book. Nor do I complain of any on the other side until 1820; but I do affirm that the moment when you said we should be shut out from the common Territories of the Union unless we abandoned our slave property, it was aggression. It is aggression to exclude fifteen States of this Union from the common territories purchased by the common blood and common treasure. We think no fair man can deny that proposition. This wrong was submitted to by the south for above thirty years, when similar questions, in the march of events, again arose in the national councils. Acquiescence was claimed as not only sanctifying the old wrong, but as a precedent for inflicting new ones. The country was aroused; the question spread from the halls of legislation to the homes of the people; and, upon a full and fair hearing, the patriotic men of the north pronounced against the usurpation, and united with us to defeat the attempted repetition of the wrong, and to bring back the legislation of the country to its ancient landmarks, by the repeal of the Missouri restriction; therefore, upon this most important and dangerous of all the forms in which the slavery question can be presented, we are now without aggression on either side. If the Senator from New Hampshire is sincere, he will stand there. The common property is open to the common enjoyment of all; let it remain so, and let us unite and firmly support those measures which will protect all alike in the peaceable enjoyment of their rights. This was not achieved by the south. She could not do it. The patriotic men of the north magnanimously struck for the right—for equality under the Constitution.

Sir, (addressing Mr. HALE,) you may denounce them for it, but you cannot make your cause the cause of the north. It is not a question of sections. Thousands of men upon both sides of Mason and Dixon's line are patriotic enough to treat it, as it deserves to be treated, as a question of the Constitution, and they have done so. You have not driven that great phalanx of true-hearted national men from the public councils by denouncing them as "dough faces."

I regretted exceedingly to hear the Senator from New Hampshire a few days since say that the north had always been practically in a minority in Congress, because we of the south bought up as many northern men as we wanted! The people of the south—one-third only of the white population of the United States—are thus deliberately charged by a northern senator with ruling the republic, and putting the north in a practical minority for fifty years, by purchasing up his countrymen. Sir, I stand here to-day, in behalf of the north, to repel the accusation.

Mr. HALE. Who made it?

Mr. TOOMBS. You said it; I have it before me in your printed speech; I heard it delivered, and you are correctly reported. I deny it; it is a slander on my countrymen. Northern statesmen have sold themselves out in quantities to suit purchasers for fifty years! New Hampshire sell her honor and her interest to "southern slave-drivers!" If it had been true, it would rather become her own son to have thrown the mantle over her shame, and concealed it from all eyes, even his own, than to have become her accuser. I think the senator may search in vain, even in the bitterest tirades of abuse and vilification ever uttered by those whom he terms "border ruffians," for any language so strong, any accusation so disgraceful, as that made by himself against his own countrymen.

What proof is offered us in support of this accusation? He pointed us to the annexation of Texas. "Perhaps," said the senator, in this connexion, "that was a northern aggression." The question of the annexation of Texas was first brought before this body in a treaty made by President Tyler; it was rejected by a large majority, composed of a majority

of the south as well as the north. It was adopted as a party measure by the democratic convention in 1844, which nominated Mr. Polk. It was openly and fairly put before the people of the United States; everywhere discussed and commented upon; emblazoned on every democratic banner throughout the Union, and decided by the people in favor of annexation. It was carried by a great majority in New Hampshire, I presume against the senator's eloquence, who, if I mistake not, was turned out of his old party for opposing it. Were the people who supported this measure bought by the south? Who bought the hardy, intelligent sons of New Hampshire? What pay did they receive? Who was rich enough to buy them? Sir, I remember to have seen it related of one of the poorest of her sons, Ethan Allen, that when it was attempted to seduce him from his fidelity to his country, he indignantly replied, "Poor as I am, the king of England is not rich enough to buy me. (Applause.) Sir, whether the story be true of him or not, I doubt not that there are thousands and tens of thousands of the incorruptible patriots of the land of Ethan Allen who would proudly have made the same reply to the same temptation. These men have not been bought, nor can they be either cajoled or intimidated by the senator from New Hampshire. They supported the annexation of Texas because they believed it was to the public interest; that it was a measure of sound policy. It was proposed by the party with whom they acted; they approved and adopted it. It was everywhere a party and not a sectional issue. Nearly one-half of the south opposed it, but a majority of both sections approved it. It is not true that those gallant and patriotic statesmen of New Hampshire who supported this measure at home and here were "bought" and bribed to support this measure, or in any way to betray their State or their section. Many of them were known and revered by friends and opponents throughout the Union. Some of them now are gathered to their fathers, fill honorable graves, and around whose tombs cluster pleasant memories, untainted by dishonor. Woodbury, Atherton, and Norris, long known and honored by New Hampshire, have thus passed away. Who bought them? In the name of truth, of justice, of my country, and for New Hampshire, I repel the charge.

New York supported that measure. Who bought her representatives? Who bought Pennsylvania? Who bought the men of the great West? They supported it. Who bought and who paid for Indiana, Illinois, and Michigan? They supported that measure. These wholesale, baseless, and unfounded charges will not intimidate, but they ought to arouse the men of the north to vindicate their honor, by indignantly repelling their libellers from their councils.

The northern men, who support and maintain their own opinions on great constitutional questions, and have the fearless independence to follow their convictions of duty, in the elegant vocabulary of the "friends of humanity," are usually termed "doughfaces" bought up by the south to betray the north. Who bought the Nestor of the Senate, [Mr. Cass,] who, with patriotic firmness, maintained his constitutional opinions, and voted against restriction, amid the yells and shrieks of his abolition detractors? He is commonly represented by this class as the chief of "doughfaces." Did the fourteen senators from the non-slaveholding States, who voted for the Kansas bill, sell out themselves and their country? It is true that some of them have fallen victims to temporary causes. The abolitionists and the dark-lantern conspiracy in some States fraternized, and succeeded in cutting some of them down. Such things are to be expected in all free countries. We cannot be wholly exempt from errors and delusions. Madness will sometimes, but only for a time, "rule the hour." We must take the good with the evil, with the firm trust that popular intelligence and patriotism will finally vindicate themselves, and come to the support of the right.

The Senator seeks every occasion to ally himself and his cause with the north; hence he artfully defends the Puritans from imputations which my friend from Tennessee [Mr. Jones] had never cast upon them. He told us the north would fight. I believe that nobody ever doubted that any portion of the people of the United States would fight on a proper occasion. Sir, if there shall ever be civil war in this country, when honest men shall set about cutting each other's throats, those who are least to be depended on in a fight will be the people who will set them at it. There are courageous and honest men enough in both sections of the Union to fight. You may preach in your pulpits in favor of sending Sharpe's rifles to Kansas, and you may succeed in getting courageous men to go there to use them. Not the least misfortune resulting from it will be, that those who stir up the strife are not apt to be found even within the reach of a far-shooting Sharpe's rifle. No, sir, there is no question of courage involved. The people of both sections of the Union have illustrated their courage on too many battle-fields to be questioned. They have shown their fighting qualities shoulder to shoulder together whenever their country has called upon them; but that they may never come in contact with each other in fraternal war, should be the ardent wish and earnest desire of every true man and honest patriot.

With reference to that portion of the senator's argument justifying the "Emigrant Aid Societies"—whatever may be their policy, whatever may be the tendency of that policy to produce strife—if they simply aid emigrants from Massachusetts to go to Kansas, and to become citizens of that Territory, I am prepared to say that they violate no law; and they had a right to do it, and every attempt to prevent them doing so violated the law, and ought not to be sustained. But if they have sent persons there furnished with arms, with the intent to offer forcible resistance to the constituted authorities, they are guilty of the highest crime

known to civil society, and are amenable to its penalties. I shall not undertake to decide upon their conduct. The facts are not before me, and I therefore pass it by.

I shall be pardoned, I trust, for not going into crimination or recrimination, as to the matters in dispute between the emigrants sent out by the Aid Societies and the inhabitants of Missouri. It is wholly immaterial to this issue who is right and who is wrong. If wrongs have been committed, apply the law to such as come within its provisions. If the law is too weak, apply force in aid of its execution, and to any extent necessary to its execution, and no further.

I know that many gentlemen with whom I have corresponded, and from whom I have otherwise heard, in western Missouri, General Atchison among them, ask for nothing more. They simply demand that the actual settlers who go to that country shall have a fair opportunity to establish those domestic institutions which they may think proper. General Atchison took this ground in the Senate. I am very sure he stands upon it now. I shall, therefore, dismiss the anonymous, unsupported charges against him. He is ready at all times to answer for himself; and, I am sure, in every contingency he will maintain that lofty character which he has always sustained.

Mr. HALE. I made no charge against him. I disclaimed any such purpose. I simply read the extracts, and gave my authority for them.

Mr. TOOMBS. If the Senator made no charge, I must say that I cannot commend the good taste or fairness of retailing against an honest man rumors or charges derogatory to his character, picked up in the streets, or in irresponsible newspapers. I doubt not the senator did that wrong unintentionally. I think, in that respect, the senator erred—more especially as the conduct of Mr. Atchison is not called in question, and can in no wise affect the questions under consideration.

The senator alluded to the Dorr rebellion in Rhode Island, and went back twelve or thirteen years and presented us with the views then entertained by President Pierce on what he calls "squatter sovereignty." Many of the resolutions* which he read as having been offered by the President I approve. A large portion of them I approve; they announced some sound constitutional truths. Some of them I am not prepared to say I wholly approve. But I do approve to the fullest extent everything the President has done in this matter, and I cannot suffer the senator to set off one against the other—and I see no other reason why those resolutions are brought here. But I can see no discrepancy between the President's opinions now and then. The complaint in Kansas is not against organic law, but against ordinary legislation, remediable at any time by the ballot box. It is to enforce these laws while they exist, and to protect the free exercise at the ballot box of the right to change, and at the instance of both parties, that the President feels it incumbent on him to prepare to bring the military in aid of the civil authority. I know there is a government in Kansas which was put there by authority of the United States. I know there is a governor and a legislature, and laws providing for the administration of justice. These are lawlessly assailed; it is his duty to protect them.

---

* The following extract from Mr. Hale's speech shows the resolutions offered by General Pierce in 1842 at the meeting which extended an asylum to Governor Dorr, who was then a refugee, from the oppressions of the minority in the State of Rhode Island:

"It cannot have escaped the recollection of gentlemen that about fourteen years ago there was a very noted individual in this country by the name of Thomas W. Dorr, who claimed to be elected governor of Rhode Island; but the result of his election was that he found that he would be safer in any other State than the one of which he claimed to be governor. He left there and went first to Connecticut, and remained there a little while, and then came to New Hampshire. When he arrived in New Hampshire a large public meeting was holden in Concord on the 14th day of December, 1842, and at that meeting General Pierce delivered a very congratulatory speech to Governor Dorr, and closed with the presentation of a series of resolutions, which, as they are not long, I will read:

"'1. *Resolved*, That all government of right originates from the people, is founded in consent, and instituted for the general good.

"'2. *Resolved*, That whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to, reform the old and establish a new form of government.

"'3. *Resolved*, That if the *friends of liberty should wait for leave from tyrants to abolish tyranny*, the day of free government would never dawn upon the eyes of the oppressed millions of our race.

"'4. *Resolved, That when the people act in their original sovereign capacity in forming and adopting new systems of government they are not bound to conform to any rules or forms of proceeding not instituted by themselves.*

"'5. *Resolved*, That the adoption of the people's constitution in Rhode Island by thirteen thousand nine hundred and forty-four votes, being an acknowledged and large majority of the whole male adult population of that State, was such an act of the people in their sovereign capacity as rendered it the paramount law of the State.'"

Pages 9-24 are missing from copy.